

**Sonos, Inc.'s Opp'n to Google LLC's
Motion *In Limine* No. 4**

EXHIBIT D

(FILED UNDER SEAL)

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**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

GOOGLE LLC,

Plaintiff,

v.

SONOS, INC.,

Defendant.

Case No. 3:20-cv-06754-WHA
Related to Case No. 3:21-cv-07559-WHA

**REBUTTAL EXPERT REPORT
REGARDING DAMAGES**

January 13, 2023

Respectfully Submitted,



W. Christopher Bakewell

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which include wireless, portable, and home theater speakers, components and accessories.⁹⁸ Sonos's "target audience is primarily audiophiles and wealthier households."⁹⁹

67. Sonos describes itself on its website as a "pioneer of wireless audio."¹⁰⁰ Sonos has a network of partners including Amazon, IKEA, Sonance and Audi, among others.¹⁰¹
68. According to the Complaint, Sonos is a leading company in terms of granted U.S. patents, having more than 940 patents, including the patents-in-suit, with hundreds more patents in other countries.¹⁰² Sonos also states that its patent portfolio is highly valuable.¹⁰³

2.3 Overview Of Google

69. Headquartered in Mountain View, California and incorporated in September 1998, Google originated as an internet search engine; the company has grown to be a global enterprise cloud computing provider.¹⁰⁴
70. Google's mission is to "to organize the world's information and make it universally accessible and useful."¹⁰⁵ Google operates a product and service ecosystem that includes operating

⁹⁸ "Sonos: Lost The Battle Before It Started," SeekingAlpha.com, March 21, 2019 (accessed: <https://seekingalpha.com/article/4250335-sonos-lost-battle-started>).

⁹⁹ Sonos, Inc.'s 10-Q for quarter ended April 2, 2022, p. 8; "Sonos, Inc. (NASDAQ: SONO)," USIT, June 21, 2020, p. 1; SONOS-SVG2-00055769, at 777, 785. Sonos products are sold through "third-party physical retailers, including custom installers of home audio systems, select e-commerce retailers, and its website, sonos.com."

¹⁰⁰ "About Sonos," Sonos website (accessed: <https://www.sonos.com/en-us/our-company>).

¹⁰¹ SONOS-SVG2-00226112-209, at 118-119, 146, 148, 158; Sonos's Form 10-K for fiscal year ended December 31, 2021, pp. 5-6, 7, 31-32, 33.

¹⁰² Malackowski Supplemental Report, p. 13, citing Sonos, Inc.'s Third Amended Complaint, *Sonos, Inc., v. Google, LLC*, 3:21-c-07559, March 30, 2022, p. 2. As of December 2022, Google held over 31,000 active U.S. patents, and over 16,000 active foreign patents. Innography Patent Search, (accessed: <https://patentscout.innography.com/>); Alphabet Inc. Form 10-K for the fiscal year ended December 31, 2019, p. 9.

¹⁰³ Sonos, Inc.'s Third Amended Complaint, *Sonos, Inc., v. Google, LLC*, 3:21-c-07559, March 30, 2022, p. 2, citing Exhibits E and F. I note that neither Sonos nor Mr. Malackowski have claimed that the patents-in-suit are among its most valuable patents.

¹⁰⁴ Google held an initial public offering in August 2004. In 2015, through corporate restructuring, Google Inc. became a subsidiary of Alphabet Inc. ("Alphabet"). In 2017, Google Inc. was converted to the limited liability company, Google LLC, which became a subsidiary of XXVI Holdings Inc., which was a subsidiary of Alphabet. Google Inc., Form 10-K for the fiscal year ended December 31, 2015, p. 18; Alphabet Inc., Form 10-K for the fiscal year ended December 31, 2021, p. 25.

¹⁰⁵ Google, Inc. Form 10-K for the period ending December 31, 2021, p. 4.

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systems, streaming services and mobile devices.¹⁰⁶ Over the years, Google has continued to improve “the discovery and creation of digital content” though platforms such as YouTube and Google Play.¹⁰⁷

71. Google has made significant advances in search, mobile computing, artificial intelligence, natural language processing, machine learning, voice-assisted technologies and analytics.¹⁰⁸ Google technologies are included in household products such as smart home speakers (*e.g.*, Google Home), smart displays (*e.g.*, Nest Hub), smart mesh router systems (*e.g.*, Nest Wifi Point), smart dongles (*e.g.*, Chromecast), smartphones (*e.g.*, Google Pixel), tablets (*e.g.*, Google Pixel Slate), and laptops ((*e.g.*, Google Pixelbook), among other products.¹⁰⁹

2.4 Overview Of Accused Products And Accused Functionalities

72. I provide a brief overview of the accused functionalities and products for the patents-in-suit in the following paragraphs.

'033 Patent: Overview Of The Accused Functionality

73. At a high level, I understand that Sonos alleges the accused products for the '033 patent include: (i) Pixel devices pre-installed with the YouTube Main and/or YouTube Music apps that allegedly directly infringe the asserted claims of the '033 patent; (ii) smartphones, tablets or laptops (including Android, iOS and ChromeOS devices) “provisioned” with the YouTube Main, YouTube Music, YouTube Kids or YouTube TV apps that allegedly indirectly infringe

¹⁰⁶ “Google Products,” Google (accessed: <https://about.google/products/#all-products>); “Google Products,” Google Store (accessed: <https://store.google.com/?hl=en-US>); “Google LLC,” Capital IQ (accessed: <https://www.capitaliq.com/CIQDotNet/company.aspx?companyId=312932093&fromSearchProfiles=True>); “The Ecosystem of Google Technologies,” CIO Review (accessed: <https://google.cioreview.com/cxoinsight/the-ecosystem-of-google-technologies-nid-5859-cid-82.html>).

¹⁰⁷ Google, Inc. Form 10-K for the period ending December 31, 2021, p. 4.

¹⁰⁸ Alphabet Inc. Form 10-K for the fiscal year ended December 31, 2021, pp. 4-6 (accessed: <https://www.sec.gov/Archives/edgar/data/1652044/000165204422000019/goog-20211231.htm>); “Stairway to Heaven,” BNP Paribas, April 21, 2021, p. 7; “Google CEO Still Insists AI Revolution Bigger Than Invention Of Fire,” Gizmodo, July 14, 2021 (accessed: <https://gizmodo.com/google-ceo-still-insists-ai-revolution-bigger-than-inve-1847288454>); “Overcoming The Innovation Readiness Gap,” BCG Consulting, April 2021 (accessed: <https://web-assets.bcg.com/d5/ef/ea7099b64b89860fd1aa3ec4ff34/bcg-most-innovative-companies-2021-apr-2021-r.pdf>).

¹⁰⁹ GOOG-SONOSNDCA-00057035; GOOG-SONOSNDCA-00056973; SONOS-SVG2-00055681-768, at 738-739; Alphabet Inc. Form 10-K for the fiscal year ended December 31, 2020, p. 6; “Stairway to Heaven,” Exane BNP Paribas, April 21, 2021, p. 7.